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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

ROBERT D. DENNIS, CLERK
U.S. DIST. COURT, WESTERN DIST. OF OKLA.
BY Jm, DEPUTY

IN RE: ASSIGNMENT OF CASES AND)
TRANSFER OF RELATED OR COMPANION CASES) G.O. 96-1

GENERAL ORDER REGARDING ASSIGNMENT OF CASES
AND TRANSFER OF RELATED OR COMPANION CASES

CIVIL

(A) The assignment of civil and criminal cases, bankruptcy court appeals and miscellaneous matters which must be filed as a civil case for statistical purposes shall be divided by lot when filed so that no person will know the assigned judge until after the case, appeal or miscellaneous matter is filed with the Clerk.

(B) Assignment cards shall be prepared by the Clerk under the supervision of the Court in such a manner that each judge of the Court over a period of time shall be assigned substantially an equal number of cases in accord with their type of assignment to the Western District of Oklahoma. The Clerk shall divide the civil cases among the judges as directed by the Court.

(C) Attorneys for the plaintiff and defendant, including the United States in criminal cases, shall, on their initial pleading, advise the Court if they are aware, after reasonable inquiry, of any companion or related case(s) filed in any court involving (1) common property, (2) common issues of fact or growing out of the same transaction, and (3) validity or infringement of the same patent, copyright or trademark, and advise the name of the court, the judge and the case number(s).

(D) The term "companion case" as used herein means any case

that may properly be consolidated and shall also include a case refiled after dismissal; a case involving the identical legal issue in the same or similar factual setting as one previously dismissed though now brought by different counsel with different parties; cases arising out of the same accident, incident or transaction involving the same or similar proof; a case filed for recovery of judgment after an earlier case brought to perpetuate testimony; a case transferred to or refiled in this district following enforcement of a foreign subpoena in the case within this district; appeal arising out of the same bankruptcy proceeding; civil litigation arising out of a criminal activity where the criminal case has already been tried (including a motion filed pursuant to 28 U.S.C. § 2255), and in criminal cases, see (Q) below.

(E) When related or companion cases are filed, the case shall be transferred by the assigned judge to the judge receiving the lowest case number if the case through the draw did not fall to the judge with the lowest case number. However, any transfer of related or companion cases will not be made until the affected judges have mutually agreed as to the companion nature of the actions and any transfer of same.

(F) In the case of doubt as to whether the subsequent case is related or companion to the earlier one, and in instances where the handling of the first case may incline the judge to recuse in the second, the decision of the transferee judge shall be respected.

(G) Post-conviction cases, either federal habeas corpus or state habeas corpus under 28 U.S.C. § 2254, shall be transferred by

the assigned judge to the judge of this Court who had the petitioner in the last prior habeas corpus case or who had the petitioner in a federal criminal case to which the habeas corpus being filed is directed.

(H) A complaint filed under the Civil Rights Act from a person, including prisoners, shall be transferred by the assigned judge to the judge of this Court who had the petitioner in the last prior civil rights complaint or petition.

(I) The judge to whom any particular action or proceeding is assigned will have full charge of such case until terminated except that (1) the matter may be transferred by order of the transferor judge upon agreement of acceptance by the transferee judge, or (2) by order of the Chief Judge, with the consent of the transferor and transferee judges.

CRIMINAL

(J) The assignment of criminal indictments, informations, magistrate judge appeals to the Court, and cases wherein the defendant objects to a trial before a magistrate judge shall be divided by lot when filed with the district court Clerk so that no person will know the assigned judge until after the criminal case is assigned a case number and filed with the Clerk.

(1) Assignment cards shall be prepared by the Clerk under the supervision of the Court in such manner that each judge of the Court over a period of time shall be assigned substantially an equal amount of cases. The Clerk shall divide the criminal cases among the judges as directed by the Court.

(K) The Chief Judge will impanel and instruct all grand juries but shall not be required to preside over any of the sessions thereof. The responsibility of presiding over the grand juries shall be divided equally among the full-time, resident judges of this Court, except the Chief Judge, with the judge most senior having preference as to which three-month period he or she desires. The judge next senior shall have preference as to which of the three remaining three-month terms he or she desires, with the judge having the least seniority taking the remaining three-month term.

(L) The grand jury shall be called into session as early as feasible each month. Criminal cases should be tried within seventy (70) days from the filing date (and making public) of the information or indictment or from the date the defendant appears before a judicial officer of the Court in this district, whichever date last occurs.

(M) The judge presiding over the grand jury shall at the beginning of the three-month period as presiding judge determine the schedule for the three-month period by setting the following dates: the dates for the grand jury to appear; the dates for the calling and empaneling of the petit jury; the dates for arraignments (to be conducted by the magistrate judges), and the dates for commencement of the criminal trial docket.

(N) All informations shall be filed and assigned by lot. However, any superseding information to an indictment already filed shall be assigned the number of the original case in which the

indictment is filed and will be assigned to the judge drawing the case in which the indictment was filed.

(O) Cases where the status of one or more of the defendants is fugitive shall, as regards the fugitive or fugitives, remain with the judge to whom it is originally assigned.

(P) The judge to whom any particular action or proceeding is assigned will have full charge of such case until terminated except that the matter may be transferred by order of the transferor judge upon agreement of acceptance by the transferee judge.

(Q) Where an information or indictment is filed concerning a defendant, and (1) that information or indictment arises out of the same transaction or series of transactions involved in a presently pending information or indictment in this district, or (2) that information or indictment involves the same defendant who has a presently pending information or indictment in this district, or (3) for other reasons would entail substantial duplication of labor if heard by a different judge, the United States Attorney shall notify the Clerk in writing and the matter shall be assigned to the judge having the low-numbered indictment or information subject to the approval of the affected judges. The written notice by the United States Attorney shall be on a form approved by the Court. The Clerk of Court, upon receipt of such notice of related criminal cases, shall immediately notify the judges, if there be more than one, to which the cases have been assigned, of such notice of related cases. Thereafter, the judges will determine whether the pending cases should be transferred to conserve judicial time and

efficiency.

(R) Where an information or indictment originating in another district is transferred to this Court pursuant to Rule 20, Federal Rules of Criminal Procedure, involving a defendant proceeded against by indictment or information in this District, it shall be assigned or transferred to the judge to whom the matter arising in this District is assigned for disposition.

If an indictment is returned in this District against a defendant who has a Rule 20 plea pending, the indictment shall be referred to the judge to whom the Rule 20 plea has been assigned.

(S) Whenever an indictment has been dismissed before trial, any new indictment involving the same transaction or series of transactions shall be assigned to the judge to whom the first indictment was assigned.